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MICHAEL P. WILKINS
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JAN MAGNUSSEN,

13 Plaintiff,

14 vs.

15 COUNTY OF CONTRA COSTA; DEPUTY
16 SHERIFF JUSTIN CHURCH, INDIVIDUALLY
17 AND IN HIS OFFICIAL CAPACITY AS A
18 DEPUTY SHERIFF FOR THE COUNTY OF
19 CONTRA COSTA; WARREN RUPF,
20 INDIVIDUALLY AND IN HIS OFFICIAL
21 CAPACITY AS SHERIFF FOR THE COUNTY
22 OF CONTRA COSTA; and DOES ONE
23 THROUGH 100,

24 Defendants.

Case No.:

COMPLAINT FOR DAMAGES
(42 U.S.C. § 1983)

Jury Trial Demanded

25 JURISDICTION AND VENUE

26 1. This Complaint alleges violations of the constitutional rights of JAN
27 MAGNUSSEN. This action arises under Title 42 United States Code Section 1983.
28 Jurisdiction is conferred upon this Court by Title 28 United States Code Sections 1331 and
1343. The unlawful acts and practices alleged herein occurred in CONTRA COSTA
COUNTY, California, which is within this judicial district. Venue is conferred upon this Court
by Title 28 United States Code Section 1391(b).

2. Plaintiff hereby demands a jury trial in this action.

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IDENTIFICATION OF PARTIES

3. Plaintiff JAN MAGNUSSEN is an adult citizen of the United States and is a resident of the State of California.

4. Defendant COUNTY OF CONTRA COSTA ("COUNTY") is a public entity, duly organized and existing under the laws of the State of California. COUNTY operates under its authority the Contra Costa County Sheriff's Office.

5. Defendant JUSTIN CHURCH ("CHURCH") is a deputy sheriff with the Contra Costa County Sheriff's Office. Defendant CHURCH is sued in this Complaint in his individual and official capacities, acting under color of law and as an agent or employee of defendant COUNTY.

6. Defendant WARREN RUPF ("RUPF") is the Sheriff of CONTRA COSTA COUNTY. Defendant RUPF is sued in this Complaint in his individual and official capacities, acting under color of law and as an agent and employee of defendant COUNTY.

7. Plaintiff is ignorant of the true names and capacities of defendants DOES 1 through 100, and therefore sues these defendants by such fictitious names. Plaintiffs will amend his Complaint when the true names and capacities of DOES 1 through 100 have been ascertained. Plaintiff is informed and believes, and on that basis alleges, that defendants DOES 1 through 100 are responsible in some manner for the injuries suffered and damages incurred by Plaintiff as alleged in this Complaint. Any reference in this Complaint to "Defendant," "Defendants," or to a specifically-named Defendant refer also to Defendants DOES 1 through 100. These Defendants are sued in their official and individual capacities.

STATEMENT OF FACTS GIVING RISE TO PLAINTIFF'S CLAIM

8. On or about midnight of May 9, 2006 plaintiff returned to his home in Discovery Bay after traveling to Redding to care for an elderly relative. After unloading his car, he attempted to secure the house so that he could go to bed. He was prevented from doing so by the sudden, unexplained appearance of defendant Deputy

1 CHURCH at the front door of plaintiff's home. CHURCH ordered plaintiff to leave the
2 house as he had no right to be there. As plaintiff is not only a lawful inhabitant, but
3 also the owner of the home, plaintiff explained these facts to Deputy CHURCH, and
4 asked that he be allowed to go to bed. However, Deputy CHURCH continued to insist
5 that plaintiff could not be on the premises.

6 9. CHURCH forced his way into plaintiff's home and tackled plaintiff, knocking
7 plaintiff to the floor. Without provocation or justification, CHURCH hit and kicked
8 plaintiff repeatedly. CHURCH then took plaintiff into custody, and had him booked
9 into the County Jail in Martinez.

10 10. CHURCH did not have a warrant to enter plaintiff's home nor to arrest
11 plaintiff. At no time did CHURCH proffer any lawful justification or authorization for
12 detaining plaintiff, for forcing entry into plaintiff's home, beating and kicking plaintiff, or
13 taking plaintiff into custody.

14 11. Plaintiff was released from jail the following day. Plaintiff sought medical
15 assistance and learned that several of his ribs had been broken by CHURCH. Plaintiff
16 reported the assault, false arrest, and his resulting injuries to a representative of the
17 Contra Costa Sheriff's Office.

18 12. Plaintiff is informed and believes, and on that basis alleges that defendant
19 RUPF, by and through his agents in the Contra Costa County Sheriff's Office,
20 reviewed and investigated the conduct of CHURCH as alleged in this Complaint. After
21 reviewing the evidence regarding the unlawful entry into plaintiff's home and the
22 excessive and unnecessary use of force against plaintiff, defendant RUPF had actual
23 and/or constructive knowledge that CHURCH had violated plaintiff's constitutional
24 rights and had violated his duties as a Sheriff's Deputy. Plaintiff is further informed
25 and believes, and on that basis alleges that, despite this knowledge, defendant RUPF
26 ratified CHURCH'S unconstitutional misconduct and declined to take appropriate
27 disciplinary action against CHURCH.

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PLAINTIFF'S CLAIM FOR RELIEF**Violation of Constitutional Rights (42 U.S.C. § 1983)**

13. The conduct of CHURCH under color of law, as described in this Complaint, constituted an unreasonable seizure and therefore violated plaintiff's rights under the Fourth Amendment to the Constitution of the United States, including the right to be free from forced entry into one's home in the absence of a warrant, probable cause or exigent circumstances, the right to be free from arrest and imprisonment without probable cause, and the right to be free from unnecessary, excessive, or unreasonable force by law enforcement officers.

14. Plaintiff is informed and believes, and on that basis alleges that defendant RUPF had prior notice and knowledge of other incidents involving the use of constitutionally excessive force, and of other incidents of unwarranted entries, searches, and or arrests by defendant CHURCH and other Deputies of the Contra Costa Sheriff's Office. Despite such notice and knowledge, RUPF, in his individual and official capacities, ratified the misconduct of CHURCH as described in this Complaint, and failed to timely, reasonably, properly, or adequately investigate, discipline, supervise, or train defendant CHURCH with respect to the rights of all persons under the Fourth Amendment to the United States Constitution. The injuries alleged in this Complaint are a proximate result of the deliberate indifference of RUPF, in his individual and official capacities, to his duty to supervise and train defendant CHURCH with respect to the rights protected by the Fourth Amendment.

15. Plaintiff is informed and believes, and on that basis alleges, that COUNTY Pursued an informal policy and practice condoning and encouraging the abuse of fundamental constitutional rights by Sheriff's Deputies. The existence of this municipal policy is evidenced by a continuing pattern and practice of unconstitutional abuses of lawful authority, including forced home entries in the absence of a warrant, arrests without probable cause, and the application of excessive and unnecessary force by defendant CHURCH and other deputies. Plaintiff is further informed and

1 believes, and on that basis alleges, that there have been multiple, previous
2 constitutional abuses which have been ratified, condoned, approved, and encouraged
3 by supervisory officials, including defendant RUPF. Accordingly, the conduct of
4 CHURCH in violating plaintiff's constitutional rights was consistent with and
5 proximately caused by the informal policies and practices of COUNTY.

6 16. As Sheriff of Contra Costa COUNTY, defendant RUPF is an official with
7 final decision-making authority, and is empowered to establish, determine, evaluate,
8 and revise the policies of the Contra Costa County Sheriff's Office. Plaintiff is
9 informed and believes, and on that basis alleges that after learning that defendant
10 CHURCH had forced his way into plaintiff's home without a warrant, repeatedly beaten
11 plaintiff without justification, and arrested plaintiff without probable cause, defendant
12 RUPF, in his individual and official capacities, ratified the actions taken by CHURCH
13 and exonerated CHURCH of any professional misconduct. These actions by
14 defendant RUPF are further evidence that the conduct of CHURCH was consistent
15 with, and reflective of, the policies and practices of COUNTY which caused the
16 violations of plaintiff's constitutional rights.

17 17. The conduct of RUPF and COUNTY, as described in this Complaint,
18 violated plaintiff's rights under the Fourth Amendment to the Constitution of the United
19 States, including the right to be free from forced entry into plaintiff's home in the
20 absence of a warrant, probable cause or exigent circumstances, the right to be free
21 from arrest and imprisonment without probable cause, and the right to be free from
22 unnecessary, excessive, or unreasonable force by law enforcement officers.

23 18. As a proximate result of defendants' conduct, plaintiff suffered physical
24 injury and disability, loss of earnings, severe physical and emotional pain and
25 suffering, and the loss of his security and dignity as a citizen of the United States.

26 19. As a further proximate result of defendants' conduct, plaintiff incurred
27 expenses for attorneys' and investigators' fees. Plaintiff is entitled to an award of all
28 such fees incurred pursuant to 42 United States Code Section 1988.

WHEREFORE, plaintiff prays for relief as follows:

- 1) For general and special damages according to proof;
- 2) For damages for the deprivation of constitutional rights;
- 3) For reasonable attorneys' fees pursuant to 42 U.S.C. § 1988;
- 4) For costs incurred; and
- 5) For such other and further relief as the Court may deem fair and just.

DATED: August 21, 2007

CASPER, MEADOWS, SCHWARTZ & COOK

By: 

ANDREW C. SCHWARTZ
Attorneys for Plaintiff